

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Philip D. Anderson

Plaintiff,

v.

Case No: 08 CIV. 1261 (KMK)(MDF)

E.H. Yost & Co., LLC d/b/a Batteries
America and E.H. Yost

Defendants.

DEFENDANTS' ANSWER TO COMPLAINT

Defendants E.H. Yost & Company, LLC ("Company") and E.H. Yost ("Yost") by their undersigned counsel, respond to Plaintiff's Complaint in the above action as follows:

1. Deny having sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 1, and accordingly deny the same.
2. Admit the allegations of paragraph 2 of the Complaint.
3. Admit the allegations of paragraph 3 of the Complaint.
4. Admit the allegations of paragraph 4 of the Complaint.
5. Answering paragraph 5 of the Complaint, deny that either of the Defendants offer for sale or sell products that infringe U.S. Patent No. 6,434,032 ("032 Patent") in the Southern District of New York or anywhere else; deny having sufficient knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 5, and accordingly deny the same.
6. Admit the allegations of paragraph 6 of the Complaint.

7. Deny having sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 7, and accordingly deny the same.

8. Answering paragraph 8 of the Complaint, admit that the Company manufactures and markets portable battery related products for various consumer devices and markets and sells product under the product codes BP-1240 and BP-1270; deny that Yost manufactures and markets portable battery related products for various consumer devices and markets and sells product under the product codes BP-1240 and BP-1270; deny having sufficient knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 8, and accordingly deny the same.

9. Answering paragraph 9 of the Complaint, deny that either Defendant has infringed United States Patent No. 6,434,032 (“032 Patent”) at any time; deny having sufficient knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 9, and accordingly deny the same.

10. Answering paragraph 10 of the Complaint, Defendants reallege their responses to paragraphs 1-9 of the Complaint, which responses are incorporated by reference.

11. Deny the allegations of paragraph 11 of the Complaint.

12. Deny the allegations of paragraph 12 of the Complaint; further deny that either Defendant has infringed the 032 Patent at any time.

13. Answering paragraph 13 of the Complaint, deny that either Defendant has infringed the 032 Patent at any time; deny the remaining allegations of paragraph 13.

AFFIRMATIVE DEFENSES

1. Neither Defendant has infringed the 032 Patent at any time.

WHEREFORE, Defendants demand judgment dismissing Plaintiff's Complaint, together with their costs and disbursements and such other relief as the Court shall deem just and equitable.

/s/ John A. Wait
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Attorneys for Defendants:
E.H. Yost & Company, LLC and E.H. Yost

CERTIFICATE OF SERVICE

I, John A. Wait, hereby certify that a true and correct copy of the foregoing answer and affirmative defenses to plaintiff's complaint was served this date through the ECF system and also by first class United States mail, postage prepaid, addressed as follows:

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Dated: June 20, 2008